

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

Criminal Action No. 1:19-00307-04

SEZAR HAMILTON

**MEMORANDUM OPINION AND ORDER**

On June 20, 2024, Hamilton filed a "Motion for Appointment of Counsel" asking that an attorney be appointed to "represent defendant in the 28 U.S.C. § 2255 proceeding." ECF No. 242. In that filing, Hamilton writes as though a § 2255 proceeding is pending on his behalf. However, there is no § 2255 motion filed by defendant on the court's active docket. Further, it does not appear that he has ever filed a Motion to Vacate pursuant to 28 U.S.C. § 2255 in this court. **Accordingly, the Clerk is directed to send Hamilton the forms for filing a § 2255 motion.**

As to Hamilton's request for counsel, the motion is **DENIED**. There is no constitutional right to counsel in proceedings under 28 U.S.C. § 2255. Crowe v. United States, 175 F.2d 799, 801 (4th Cir. 1949) ("So far as appointment of counsel is concerned, the requirement of the Constitution is that the prisoner have counsel upon his trial, not when he subsequently

makes a motion attacking the judgment there entered."); see also Pennsylvania v. Finley, 481 U.S. 551, 555 (1987) ("Our cases establish that the right to appointed counsel extends to the first appeal of right, and no further."). Nor has Hamilton shown that the "interests of justice" require the appointment of counsel. 18 U.S.C. § 3006A(a)(2)(B); see also Rule 8(c) of the Rules Governing Section 2255 Proceedings (requiring the appointment of counsel only if an evidentiary hearing is warranted); United States v. Riley, 21 F. App'x 139, 141 (4th Cir. 2001) (holding that district court did not err in denying request to appoint counsel because there is no right to habeas counsel and movant failed to show that the "interests of justice" require that she be appointed counsel).

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to defendant.

**IT IS SO ORDERED** this 21st day of June, 2024.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge